

TUCKER ARENSBERG, P. C.

1200 PITTSBURGH NATIONAL BUILDING
PITTSBURGH, PENNSYLVANIA 15222

412-566-1212

TELEX NUMBER 902914

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DONALD P. ERIKSEN
HENRY W. EWALT
GARY P. HUNT
JEFFREY J. LEECH
GARLAND H. MCADOO, JR.
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JOHN P. PAPUGA
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HENRY S. POOL
C. LEON SHERMAN
WILLIAM J. STALEY
RICHARD B. TUCKER, JR.
RICHARD B. TUCKER, III
CHARLES J. VATER

MATTHEW J. CARL
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COUNSEL
CHARLES C. ARENSBERG
F. J. TORRANCE BAKER
FRANKLIN BLACKSTONE, JR.
FRANK L. WIEGAND, JR.

*ON LEAVE OF ABSENCE

14386

RECORDATION NO. Filed 1425

July 23, 1984

JUL 26 1984 1:12 PM

Secretary of the Interstate
Commerce Commission
Interstate Commerce Commission
Washington, DC 20423

No. 4-208A017
Date JUL 26 1984
Fee \$ 50.00-40/10
INTERSTATE COMMERCE COMMISSION
MOTOR OPERATING UNIT
JUL 26 1 44 PM '84
THE SECRETARY
ICC OFFICE OF

Dear Secretary:

ICC Washington, D. C.

I have enclosed an original and one counterpart of the document described below, to be recorded pursuant to Section 14305 of Title 49 of the U.S. Code.

This document is a Mortgage of Railroad Rolling Stock, a primary document, dated as of June 20, 1984.

The names and addresses of the parties to the documents are as follows:

Mortgagor: Charles Jay Miller
3506 Fifth Avenue
Pittsburgh, PA 15213

Mortgagee: Pittsburgh National Bank
Pittsburgh National Building
Pittsburgh, PA 15265

A description of the equipment covered by the documents is as follows:

Type	ARR Mechanical Designation	Number of Units
A230	XL Boxcar	5
Identifying Marks	and	Road Serial Numbers
ATW		25155 25156 25157 25158 25159

TUCKER ARENSBERG, P. C.

Secretary of the Interstate
Commerce Commission
July 23, 1984
Page Two

A fee of \$50.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to Pittsburgh National Bank, c/o Daniel J. Perry, Esquire, Tucker Arensberg, P.C., 1200 Pittsburgh National Building, Pittsburgh, PA 15222.

A short summary of the document to appear in the index is as follows:

This Mortgage of Railroad Rolling Stock dated as of June 20, 1984 between Charles Jay Miller, 3506 Fifth Avenue, Pittsburgh, Pennsylvania 15213 and Pittsburgh National Bank, Pittsburgh National Building, Pittsburgh, Pennsylvania 15265 and covers Railroad Rolling Stock with Road Serial Numbers ATW-25155, ATW-25156, ATW-25157, ATW-25158 and ATW-25159.

Very truly yours,

TUCKER ARENSBERG, P.C.

By

Daniel J. Perry
Daniel J. Perry

DJP/cm
Enclosures

Interstate Commerce Commission
Washington, D.C. 20423

7/26/84

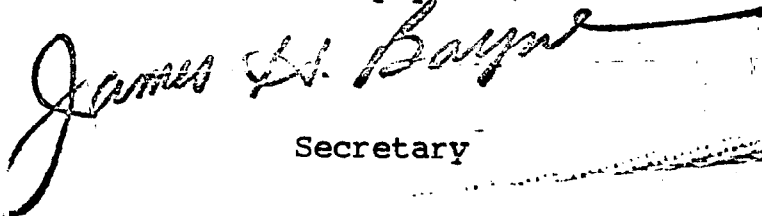
OFFICE OF THE SECRETARY

Daniel J. Perry
Pittsburgh Natl. Bank
Tucker Arensberg, P.C.
1200 Pittsburgh Natl. Bldge
Pittsburgh, PA. 15222

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 7/26/84 at 1:50pm and assigned re-recording number(s). 14386

Sincerely yours,


Secretary

Enclosure(s)

All Recordation are now one price \$10.00

14386

RECORDATION NO. _____ Filed 1425

JUL 26 1984 .1 12 PM

MORTGAGE OF RAILROAD ROLLING STOCK INTERSTATE COMMERCE COMMISSION

CHARLES J. MILLER of 3506 Fifth Avenue, Pittsburgh, Pennsylvania 15213 (the "Mortgagor") and PITTSBURGH NATIONAL BANK ("PNB"), a national banking association with its principal office at Fifth Avenue and Wood Street, Pittsburgh National Building, Pittsburgh, Pennsylvania 15265, in consideration of the mutual covenants and agreements contained herein, hereby Recite and Agree as follows:

Recitals

1. Ownership of Units

Mortgagor is the owner of 5 railroad boxcars specifically identified in Schedule 1 hereto, (all of which cars and any other railroad rolling stock covered hereby, whenever acquired, together with all replacements, replacement parts, additions, repairs, repair parts, accessions and accessories incorporated therein and/or affixed thereto, all special tools and devices incorporated thereinto, and all replacements and substitutions thereof are hereinafter referred to collectively in the plural as the "Units" and in the singular as "Unit").

2. Agreement to Finance

PNB has agreed, subject to the terms and conditions of a Credit Agreement dated as of June 20, 1984 by and between Mortgagor and PNB, to lend to Mortgagor the maximum principal amount of One Hundred Twenty-Eight Thousand Two Hundred Eighty-Two and 02/100 Dollars (\$128,282.02) ("Agreement"). The Agreement is hereby incorporated herein and all terms defined therein shall have the same meanings herein except only as otherwise defined herein.

3. Agreement to Secure Advances

Mortgagor has agreed to grant in the Agreement and does hereby grant to PNB a security interest in the Units to secure advances made and to be made by PNB under and pursuant to the Agreement.

4. Mortgagor's Obligations

Mortgagor's obligations hereunder shall include the total unpaid amount of the Note together with any and all of Mortgagor's joint and several obligations under the Agreement, a security agreement referred to in Section 2.3 of the Agreement or hereunder all of whatever kind and whenever created of Mortgagor

to PNB, including interest, whether direct or indirect, absolute or contingent, joint or several or whether now existing or hereafter arising, all of which are covered by this Mortgage and are herein collectively called the "Obligations".

Agreements

5. Mortgage Interest

To secure payment and performance of the Obligations, Mortgagor grants to PNB a continuing security interest in the following, and, if moved, sold, leased or otherwise disposed of, the proceeds thereof:

Whether now in existence or hereafter acquired, all of the following: The railroad rolling stock specifically identified in Schedule 1 hereto (to be further identified, supplemented and added to from time to time); together with all replacements, replacement parts, additions, repairs, repair parts, accessions and accessories incorporated therein and/or affixed thereto, all special tools and devices incorporated thereinto or used in connection therewith; and together with all products, replacements, additions, substitutions and proceeds (including any claims or insurance payable by reason of loss or damage to the Units) thereof ("Mortgaged Property").

6. Inspection, Selection and Delivery of Units

As to each Unit, Mortgagor or Manager will inspect and carefully select such Unit under the terms of any agreement affecting the purchase thereof and will take delivery thereof. By inspecting, selecting and taking delivery of such Unit, Mortgagor shall and does warranty to PNB that each delivered Unit is in the condition, repair and of a value to be fully suitable for all purposes hereunder.

7. Repairs, Alterations, Additions, Improvements and Expenses

During the effectiveness hereof, Mortgagor will make or cause to be made such repairs, alterations, additions and improvements as are or may be required from time to time (a) under the Management Agreement or Management Agreements and/or (b) to insure compliance herewith and with all laws, rules and regulations to which reference is made in Section 8 hereof. Without the prior written consent of PNB, Mortgagor shall not make or cause to be made other alterations, additions or improvements to any Unit, unless such may be made without reduction of the value of that Unit below the amount which it would have been had no alteration, addition or improvement been

made, and without impairment to the condition and working order required hereby.

Mortgagor will keep or cause to be kept each Unit in good repair, condition and working order and will furnish or cause to be furnished all parts, mechanisms and devices required to keep each Unit in good mechanical and working order and in compliance with the laws to which reference is made in Section 8 hereof. PNB shall have no responsibility for any cost arising under this Section or for any expense arising out of or necessary for the operation and use of the Units, including but not limited to maintenance, repairs and replacement parts, storage, tolls, tariffs, fines, registration and insurance fees for all insurance required hereby.

8. Use and Standards of Use and Repair

Mortgagor will repair, keep in repair and cause the Units to be used in a careful and proper manner and will comply with and conform to and with all current and future federal, state, municipal, police and other laws, ordinances and regulations relating to the possession, use or maintenance of the Units. Mortgagor will comply or through the Manager cause compliance with all rules, interpretations, codes and orders governing use, hire, condition, repair and all other matters interpreted as being applicable to the Units during the effectiveness hereof by and of the American Association of Railroads ("AAR") and any other organization, association, agency or governmental authority, including the Interstate Commerce Commission and the Department of Transportation, which may during the effectiveness hereof be responsible for or have authority to promulgate such rules, interpretations, codes and orders. Mortgagor agrees to indemnify and hold PNB safe and harmless from and against any and all claims, costs, expenses (including without limitation attorneys' fees), damages and liabilities claimed, arising from or pertaining to such laws, ordinances, regulations, rules, interpretations, codes and orders.

9. Supplemental Schedules and Identifications

In the event of any addition or substitution of Mortgaged Property hereunder, Mortgagor will forthwith prepare and submit to PNB supplemental schedules in form and substance satisfactory to PNB. In addition, Mortgagor will affix or cause to be affixed to each Unit and maintain throughout the effectiveness hereof, labels, plates or other markings identifying the Units and PNB's interest therein, including without limitation the marks and stencils recited in the Schedule. Mortgagor agrees to join with PNB in the execution of any documents and to pay all recording costs, fees and taxes associated therewith which PNB may request to give evidence of

PNB's interest in the Units and Mortgagor agrees that PNB may give notice of such interest to any and all of Mortgagor's creditors.

10. Insurance

Mortgagor further warrants and covenants that he will keep and maintain the following insurance on and in respect of the Collateral and of its business generally:

(a) Coverage. Mortgagor will carry, at his cost and at no cost to PNB, with insurers of recognized responsibility comprehensive public liability and property damage insurance in respect of the operation and use of the Units, in an amount not less than \$10,000,000.00 for each occurrence, which insurance may contain a \$1,000.00 deductible provision for any one occurrence. In addition each Unit shall be insured against casualty damage in a minimum initial amount of \$32,500 per car and a reducing amount thereafter so long as the casualty insurance carried on all of Mortgagor's Units exceeds at all times 110% of the unpaid principal amount of Mortgagor's Note.

(b) Policy Provisions. Mortgagor shall cause each insurance policy issued pursuant to the requirements of subsection (a) hereof to provide, and the insurer issuing such policy to certify to PNB, that (i) PNB, as mortgagee of the Units, is an additional insured thereunder, (ii) all provisions of such policy, except the limits of liability, will operate in the same manner as if there were a separate policy covering each insured and (iii) if such policy be cancelled or materially changed for any reason whatsoever such insurer will promptly notify PNB and such cancellation or change will not be effective for thirty (30) days after notice to PNB.

(c) Delivery of Policies and Receipts for Premiums. Mortgagor shall deliver to PNB copies of each such insurance policy (or a certificate of insurance relating thereto) upon or prior to the execution hereof and copies of each renewal policy (or a certificate or other evidence of insurance relating thereto) prior to the expiration of the original policy or preceding renewal policy, as the case may be (provided, however, that Mortgagor shall notify PNB in writing of the status of such insurance thirty (30) days prior to the expiration thereof in the event he has not then delivered to PNB a renewal policy, or a certificate or other evidence of insurance relating thereto), and Mortgagor shall deliver to PNB receipts or other evidence that the premiums thereon have been paid if reasonably requested by PNB.

11. Loss or Damages

If damage occurs to any of the Units, Mortgagor shall:

(a) Cause the Unit which has suffered the damage to be placed in the repair, condition and working order required hereby;

(b) With the prior consent of (which consent shall not be unreasonably withheld) or on the demand of PNB declare that the Unit has suffered an Event of Loss in which event Mortgagor shall make the prepayment required by Section 1.5 of the Agreement.

In the event the Mortgagor repairs the Unit which suffered the damage PNB will, upon proof satisfactory to it of the completion of all necessary repair, release to the Manager any insurance proceeds received by PNB as a result of the occurrence of the damage. In the event the Mortgagor declares that the Unit has suffered an Event of Loss, PNB shall apply insurance proceeds related to the Event of Loss and received prior to the prepayment date to prepay Mortgagor's Obligations as set forth in the Agreement. If PNB has been prepaid at the time it receives the insurance proceeds it shall deliver those proceeds to the Manager for disbursement pursuant to the Management Agreement or any subsequent Management Agreements.

12. Assignment

Mortgagor will not sell, assign, sublet, pledge, hypothecate or otherwise encumber or suffer a lien upon or against any interest in the Units without the prior written consent of PNB. PNB may assign this Mortgage or any right and title it has hereunder upon written notice thereof to Mortgagor and such assignment shall be on terms and conditions not inconsistent herewith.

13. Default

Mortgagor shall be deemed to be in default hereunder in the event that an Event of Default should occur under Section 6.1 of the Agreement.

14. Enforcement of Security and Remedies

In the event of default hereunder, then, or at any time thereafter (such default not having previously been cured), PNB may declare all of the Obligations to be immediately due and payable, without notice or demand therefor, and shall then have all remedies hereunder, under the Agreement and all the remedies

of a secured party under the laws of the Commonwealth of Pennsylvania, or any other applicable laws, including, without limitation, the right to take possession of the Units and for that purpose PNB (a) may require Mortgagor to make the Units and the records thereof available to PNB at a place to be designated by PNB reasonably convenient to both parties and (b) may, so far as Mortgagor can give authority therefor, enter upon any premises on which the Units or any part or records thereof may be situated and remove the same therefrom, and Mortgagor hereby waives and releases PNB of and from any and all claims in connection with such removal.

The parties hereto recognize that the Units may and probably will be widely scattered geographically, difficult of preservation and disposition, important to the continued operation of shippers and subject to complex maintenance and management requirements. Accordingly, the parties agree that, after default, PNB is to have the widest possible latitude of action to preserve and protect the Units and its security therein and agree further that, at its option, PNB shall have the unqualified right to appointment of receivers for the preservation, possession, protection and disposition of all or part of the Units and the collection and protection for PNB of any proceeds of or use or disposition thereof and/or to do any other thing and exercise any rights or remedies which PNB may or might, with or without judicial process, do or exercise.

After PNB takes or receives possession of the Units following default, PNB may sell, lease or otherwise dispose of the Units in any manner permitted by law, and if notice is required by law, PNB will give Mortgagor written notice of the time and place of any public sale of the Units or of the time after which any private sale or other intended disposition thereof is to be made, and at any such public or private sale PNB may purchase all or any part of the Units. The parties hereto agree that notice under this paragraph shall not be unreasonable as to time if given in compliance herewith 5 days prior to sale or other disposition.

To the extent permitted by applicable law, Mortgagor hereby waives any rights now or hereafter conferred by statute or otherwise which may require PNB to sell, lease or otherwise use any Units in mitigation of PNB's damages as set forth in this section or which may otherwise limit or modify any of PNB's rights or remedies under this section.

Mortgagor shall pay to PNB, on demand and as part of the obligations secured hereunder, all costs and expenses, including court costs, legal expenses and reasonable attorneys' fees, incurred by PNB in exercising any of its right or remedies

hereunder or enforcing any of the terms, conditions or provisions hereof.

15. Concurrent Remedies

No right or remedy of PNB hereunder shall be exclusive of any other remedy herein or by law provided; each right or remedy shall be cumulative and in addition to every other right or remedy and, in addition, the exercise of any remedy by PNB hereunder shall not of itself constitute a recognition of a default of all provisions hereof or of an intent by PNB to terminate all the provisions hereof. Moreover, a failure of PNB to insist upon strict compliance with the terms hereof or to assert any right or remedy hereunder shall not be waiver of any default and shall not be determined to constitute a modification of the agreements of the parties hereto or the terms hereof or to establish any claim or defense.

16. Mortgagee's Payment

In the event that Mortgagor should fail duly and promptly to perform any of the things required to be performed hereunder, PNB may, at its option, immediately or at any time thereafter, perform the same for the account of Mortgagor without thereby waiving any default, and any amount paid or expenses or liability incurred by PNB in such performance, together with interest thereon at the rate of three percent (3%) per annum in excess of the Prime Rate as that rate may change from time to time until paid shall be payable to PNB by Mortgagor on demand and shall be and become part of the obligations secured hereunder.

17. Notice

Except as otherwise specifically provided herein, notice shall be deemed to have been properly given to Mortgagor when deposited in the United States mail, first class postage prepaid and addressed to Mortgagor at 3506 Fifth Avenue, Pittsburgh, Pennsylvania 15213. Any communication to PNB shall be deemed properly given if similarly mailed to Pittsburgh National Bank, Fifth Avenue and Wood Street, Pittsburgh National Building, Pittsburgh, Pennsylvania 15265. Either party hereto may at any time change its address for notification purposes by mailing, as aforesaid, a notice stating the change and setting forth the new address.

18. Miscellaneous

All covenants and agreements in this Mortgage contained by or on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and assigns of the

parties hereto whether so expressed or not, except that Mortgagor shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of PNB.

The titles to the various sections of this Mortgage are solely for convenience and are not a part of the Mortgage for purposes of interpreting the provisions hereof.

This Mortgage, the Schedule, or any other instruments, documents or agreements to be delivered hereunder, are being executed and delivered and are intended to be performed in the Commonwealth of Pennsylvania. The parties hereto agree that the law of the Commonwealth of Pennsylvania shall govern their rights and duties hereunder, excepting applicable federal law.

As used in this Mortgage the term "Mortgagor", if there be more than one party executing this Mortgage as Mortgagor, shall mean all such parties and each of them and in such case they are jointly and severally bound.

This written agreement is exclusive as to its subject matter and no inconsistent oral agreement shall be binding.

IN WITNESS WHEREOF, the parties hereto have caused this Mortgage to be duly executed by their respective duly authorized officers as of the 20th day of June, 1984.

WITNESS:

Susan M. McArthur

MORTGAGOR

Charles Jay Miller
Charles Jay Miller

PITTSBURGH NATIONAL BANK

By

Robert S. Taylor, Jr.
Robert S. Taylor, Jr.
Commercial Bank Officer

SCHEDULE 1

To Mortgage of
Railroad Rolling Stock
Dated June 20, 1984

Description of Equipment (Units):

<u>Type</u>	ARR Mechanical <u>Designation</u>	Number of <u>Units</u>
A230	XL Boxcar	5

<u>Identifying Marks</u>	and	<u>Road Serial Numbers</u>
ATW		25155 25156 25157 25158 25159

Legend to be placed on each unit in one inch letters:

"Subject to a Security Interest in favor of
Pittsburgh National Bank per mortgage filed
with the Interstate Commerce Commission pur-
suant to Section 11303 of the Interstate
Commerce Act."

ACKNOWLEDGMENT OF MORTGAGE OF RAILROAD ROLLING STOCK

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this the 6th day of July, 1984, before me, a Notary Public, the undersigned officer, personally appeared Charles Jay Miller, satisfactorily proven to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

MY COMMISSION EXPIRES:

Susan M. McMarlin
Notary Public

SUSAN M. MCMARLIN, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES SEPT. 14, 1987
Member, Pennsylvania Association of Notaries

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF ALLEGHENY)

On this the 20th day of July, 1984, before me, a Notary Public, the undersigned officer, personally appeared Robert S. Taylor, Jr., who acknowledged himself to be a Commercial Banking Officer of Pittsburgh National Bank, a national banking association, and that he as such Commercial Banking Officer, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of Pittsburgh National Bank by himself as a Commercial Banking Officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

MY COMMISSION EXPIRES:

Mary B. Tullius
Notary Public

MARY B. TULLIUS, NOTARY PUBLIC
PITTSBURGH, ALLEGHENY COUNTY
MY COMMISSION EXPIRES MAY 6, 1985
Member, Pennsylvania Association